

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ANTHONY MENDES and DORIS MENDES,

Plaintiffs,

V.

CENDANT MORTGAGE,

Defendant.

Civil Action No. 05CV11765DPW

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56, Defendant, PHH Mortgage Corporation f/k/a Cendant Mortgage (“Cendant”), hereby moves for summary judgment on all claims of the Plaintiffs, Anthony Mendes and Doris Mendes (collectively, “Mendes”). As grounds for this motion, Cendant states that it is entitled to summary judgment because there are no genuine issues of material fact in dispute, and, therefore, Cendant is entitled to judgment in its favor as a matter of law.

Counts 1 of the Mendes' Complaint is for breach of contract. The gist of Mendes' breach of contract claim is that Cendant breached a commitment to make Mendes a loan in connection with Mendes' proposed purchase of property located at 1-3 Chilson Avenue, Mansfield, Massachusetts. But Mendes has admitted in discovery that they were unable to fulfill certain agreed-upon conditions of a loan agreement between the parties. For this reason, Mendes cannot prevail on their breach of contract claim. Mendes' other claims, for breach of implied contract and Chapter 93A must also fail based on these undisputed facts.

In support of this motion, Cendant has filed herewith the Affidavit of Claire Taylor, an Affidavit Authenticating Documents, a Local Rule 56.1 Statement of Undisputed Facts, and a Memorandum of Law.

WHEREFORE, PHH Mortgage Corporation f/k/a Cendant Mortgage requests that the Court grant it summary judgment on all of the Plaintiffs' claims and dismiss the Complaint.

PHH MORTGAGE CORPORATION,
f/k/a Cendant Mortgage,

By its attorneys,

/s/Andrew Keith Goldstein

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Dated: September 22, 2006

CERTIFICATE OF SERVICE

I, Andrew Keith Goldstein, hereby certify that on September 22, 2006, I caused the foregoing document to be served by first class mail, postage prepaid, and by e-mail upon the Plaintiffs' attorney, Christopher J. Trombetta, Law Office of Christopher J. Trombetta, 310 North Main Street, Mansfield, MA 02048.

s/Andrew Keith Goldstein

Andrew Keith Goldstein